



EMPLOYMENT TRIBUNALS

Claimant: Mr K Daniel

Respondent: Cardinal Shopfitting + Systems Ltd

Heard at: Leeds (by CVP and telephone) **On:** 15 December 2020

Before: Employment Judge Parkin sitting alone

Representation

Claimant: In person, by telephone

Respondent: No attendance or representation

JUDGMENT

The judgment of the Tribunal is that:

- 1) The claimant's claims of unfair dismissal, for a redundancy payment and for accrued holiday pay are dismissed upon withdrawal by him;
- 2) The respondent wrongfully dismissed the claimant in breach of contract in respect of his notice entitlement and is ordered to pay him damages representing two weeks' wages in the sum of £740.00 gross; and
- 3) The respondent made an unlawful deduction from the claimant's wages in respect of arrears of pay for his week in hand and is ordered to pay him the sum of £370 gross.

REASONS

1. "Code V" in the heading indicates that this was a remote hearing by video. Unfortunately, the claimant was unable to join by video but joined by telephone instead.
2. The claimant presented his claim on 18 August 2020, complaining of unfair dismissal by his respondent and claiming a redundancy payment,

notice pay, holiday pay and non-payment of wages by his employer. He gave the details of his claim simply as: "Unfair dismissal and no notice"

3. The respondent company by then in administration presented its ET3 response denying unfair dismissal but admitting that the claimant had been dismissed for redundancy on 13 July 2020 when the administrators were appointed. It accepted that he was entitled to a redundancy payment, notice pay and accrued holiday pay and may be entitled to arrears of pay. By letter dated 13 October 2020, the respondent then indicated that the administrators gave consent to the case proceeding but the respondent would not be participating further in the proceedings or at the hearing.
4. However, when the claimant failed to comply with a case management order to provide a schedule of loss and witness statement, the respondent sought that an Unless Order be made against him. The tribunal declined to make such an order on paper but indicated that the application could be made at the hearing. In the event, there was no attendance or representation for the respondent at the hearing and no such application was pursued; the respondent did not actively resist the claim. The Judge was able to proceed without a witness statement and schedule of loss.
5. The claimant explained that he had received both a redundancy payment and his outstanding holiday pay (compensation for accrued paid annual leave) via the Redundancy Payments Office of the Insolvency Service. He was therefore able to withdraw both those claims and likewise withdrew his unfair dismissal claim in circumstances where he understood that all employees were immediately dismissed for redundancy upon the appointment of the administrators. However, he had been given no notice and received no payment in lieu and was still owed one week's wages in hand, referring back to when he joined the respondent as an employee in June 2018 (after previously working as an agency worker). He earned £370.00 gross, £307.00 net per week.
6. In these circumstances, the Tribunal gave judgment in the claimant's favour in the sum of £740.00 gross as damages for breach of contract representing two weeks' pay at statutory minimum notice entitlement and a further one week's gross pay at £370.00 for his missing week in hand's pay. If further payments in respect of these items are made by the Redundancy Payments Office, the claimant will need to give credit in respect of them. Damages for breach of contract have been assessed on the basis of the claimant's gross pay for the notice period. Once the respondent pays that amount to the claimant, HMRC is likely to require the claimant to pay tax and national insurance on it as Post-Employment Notice Pay.

Employment Judge Parkin

Date 15 December 2020